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TOM LYTHGOE, CHAIR

DAVE KIRSCH

LEONARD WORTMAN

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
June 1, 2010**

Present: Commissioners Lythgoe, Kirsch and Wortman; Harold Stepper and Mike Hoffman, County Planners; Megan Bullock, County Sanitarian; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Tim Dick, Headwaters Country Jam; Ralph Dixon, Dick & Dixie Rennie, Barb Sunderland, Bud Siderits, Colleen Teeling, Charlene Hall, Cheryl Hasaakker, John Kountz, Sue Pullman, Bill Pullman, Deb Hanniman, Doug Salsbury, Chuck Wideman, Shane Worley, Bill Fisher, Ed McCauley

CORRESPONDENCE

Commissioner Lythgoe noted the receipt of a TSEP draw-down request which requires signatures. The documents were signed and will be submitted.

Commissioner Lythgoe noted the receipt of an application for payment for the sidewalk/drainage update on Commission office block.

Commissioner Wortman read a letter to Joe Carter (which was copied to the Commission) regarding questions about the weight limit on Basin Creek Bridge. Commissioner Wortman stated that the 6 ton limit was put on there by the state, using whatever criteria they use. We had our engineers come out and inspect the bridge and they came up with a different weight limit. Joe has responded to the letter.

Commissioner Lythgoe read a commitment form regarding FY2011 County Medicaid Match to the Center for Mental Health. He noted that this is something that the county does regularly. We used to send money directly to the Center for Mental Health (formerly Golden Triangle) now, send money to the state, money used to match other funds. Commissioner Lythgoe moved to continue to use CMH for mental health services and forward money. Commissioner Kirsch seconded. The motion carried.

Commissioner Lythgoe read a letter of thanks to Joe Carter, Road Supervisor, for his quick response to a letter regarding pine beetle kill trees.

Commissioner Lythgoe read an e-mail from Holly Wyss, giving praise for the road department and the good work that they had done.

CALENDAR REVIEW

- 6/2 Solid Waste safety meeting - 8:00
TIF meeting - 3:00
- 6/3 MSTI meeting - 3:00
Whitehall Community Board - 7:00
- 6/4 Meeting with Patty and Bonnie re Mockel tax question - 10:00
MSTI open house - Townsend - 4:00
- 6/8 Clancy wastewater public meeting - 7:00

COMMISSION REPORTS

JLDC

Commissioner Lythgoe reported on the JLDC meeting in Whitehall on Wednesday. They discussed staff tasks for the coming year.

SALARY COMPENSATION COMMITTEE

Commissioner Lythgoe reported that they attended the salary compensation committee meeting on Thursday to set the salaries of the elected officials. Because a two percent increase was previously negotiated with union, the committee decided that Elected Officials and non-union employees would get the same increase.

MSTI MEETING

Commissioner Lythgoe said that most of those in attendance were also at the big meeting with DEQ and BLM on Thursday. He said that it was a good meeting with great discussion, and a lot was accomplished. Commissioner Lythgoe noted that at that meeting, they designated Commissioner Wortman as liaison for the MSTI project.

FAIR BOARD

Commissioner Wortman reported that he attended the fair board meeting on Tuesday. They are getting geared up for the fair and the bleacher project is going well.

MOSQUITO BOARD

Commissioner Kirsch reported that on the 25th he attended the mosquito board meeting. The next day they went out with dip cups and found an amazing amount of mosquito larvae in the valley. They have bought \$2200 worth of pellets that will be scattered over 18 acres. Unfortunately 40 acres need to be treated. He said that this is going to be a great season for mosquitos.

MINING CONFERENCE

Commissioner Kirsch reported that on Wednesday night he attended a mining conference at Fairmont.

SUBDIVISION REVIEW

REQUEST FOR EXTENSION OF PRELIMINARY PLAT APPROVAL – LOT 5 FLINTLOCK MINOR

Mike Hoffman, County Planner, presented a letter from the developer requesting a one-year extension of preliminary plat approval.

Mike recommended that the extension be granted.

Commissioner Wortman moved to grant the extension. Commissioner Kirsch seconded. The motion carried.

PRELIMINARY PLAT REVIEW – BOULDER RIVER MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this minor subdivision located outside of Basin. The parcel contains 28.41 acres and is proposed to be split into five lots ranging in size from 2.55 to 13.82 acres. Approach permits may be required from MDT for direct access from old highway 91. Old highway 91 has been designated by the State of Montana as a historic cattle route. As a mitigation measure of open range cattle movements, the developer will be required to annotate this designation on the final plat and in the appropriate documents of records for the parcels. As an additional mitigation measure, covenants will contain recommendations for fencing to be utilized by the new parcel owners to reduce conflicts and the impacts of range cattle on the subdivision.

Mike recommended that preliminary plat approval be granted.

Commissioner Lythgoe stated that at one time MDT was pretty reluctant to grant approach permits on that trail. Harold stated that the developer has approached MDT and they didn't seem to think that there would be a problem. Also, there is an approach in place to the straw house. There would probably just be one additional approach to service the inside lots.

Commissioner Kirsch asked if this goes down the old railroad tracks. Mike stated that this is correct; the old railroad grade is within the proposal.

Ed McCauley asked if the railroad bed is in the lots. He thought that MDT owned the rail bed. He asked if ownership has been cleared and if they have seen a deed. Ed said that in March 2002, MDT said that no new approaches would be approved off of the cattle trail, this is news to him. He would insist that if this goes through, that a legal fence, as defined by state statutes, be

required.

Ralph Dixon, the developer, stated that there is something in the preliminary covenants regarding no commercial dog kennels, and that dogs are not allowed to run loose. He stated that this property is probably going to be pretty much recreational; he can't see anyone moving in and living there year round, due to the location. Commissioner Lythgoe stated that he recalls that MDT wasn't going to approve any more approach permits. Ralph said that he was told to work with the county. Commissioner Wortman stated that if we issue permits on that road it would seem that we are exercising some sort of control over the road. Ralph stated that there are already two approaches on the property.

Commissioner Wortman asked about Ed's concerns regarding the fencing. Mike said that there isn't a statute that would require fencing, but it will be in the covenants that fencing is suggested. Commissioner Wortman asked what would prevent us from putting in the conditions of approval that fencing is required along the stock lane. Mike said that the County Attorney would have to be consulted for a definitive answer on if we can require fencing.

Commissioner Lythgoe stated that he is assuming that the fencing issue is dealt with in the covenants. Ralph said that the covenants will encourage people to fence their property. Commissioner Lythgoe said that covenants, as everyone knows, aren't very enforceable. There has to be a person or a group of people in the subdivision that decides to enforce these covenants by hiring an attorney and making sure that the covenants are adhered to. That just doesn't happen very often.

Commissioner Lythgoe asked Mike if he is suggesting that they can't add a fencing requirement to the conditions of approval. Mike said that the Commissioners certainly have the ability to set conditions of approval, but Mr. Dixon will go to significant expense to put this fence in and it may impact the sale of a lot. There is no guarantee that they will keep cattle out; he has seen cattle trash a four-strand barb wire fence.

Ralph said that there is no fence there today and the cattle come in there. This will be added to buy/sell and will be in the title insurance. Commissioner Wortman noted that if some of the lot owners fence their lots and others don't, the cattle could get back in there and cause a whole other set of problems. Ralph said that this would be a hard parcel to fence, because it ends in the middle of the river.

Commissioner Lythgoe moved to grant preliminary plat approval. Commissioner Wortman seconded for discussion. Commissioner Wortman stated that he still has some concerns regarding the fencing. He asked Ed if he has any ideas. Ed said that his main concern is the old state highway being fenced separate from this subdivision with proper gates and cattle guard. He thinks that the state owns it, so they can require that the owner fence it. Commissioner Lythgoe stated that the entire approach issue will be thrown back to the state. Mike stated that maybe an additional recommendation could be that Mr. Dixon provides some verification from MDT regarding the requirement of fencing.

Commissioner Wortman asked about the requirement dealing with approach permits. Mike stated that the requirement is that the developer gets the proper permitting from the Department of Transportation. If MDT decides that there are no permits to be issued or that they would not issue a permit, then that would be certainly appropriate on their part. At no place in the staff report is the county accepting liability for issuing permits.

Commissioner Lythgoe stated that, in reality, if Jefferson County isn't issuing a permit, and MDT isn't issuing a permit, he can build an approach as long as it is to Jefferson County road standards. Mike stated that this is correct. He went on to say that if it were at all supported by statute, he would have included a fencing requirement. Commissioner Wortman said that if some of the parcels are fenced and some of them aren't, it might create more problems than if none of them were.

Ralph offered to fence lots 2, 3 and 4, noting that lot 1 is already fenced and lot 5 doesn't have a septic permit, so he doubts that anyone would be building on it.

Harold stated that as the developer has offered to fence lots 2, 3 and 4, noting that leaving lot 5 unfenced would still allow the cattle access to the river where they water. This will be added as a condition of approval.

Commissioner Lythgoe moved to grant preliminary plat approval to the Boulder River minor subdivision with the addition of condition of approval #17 requiring that the developer fence lots 2, 3 and 4 and connect that fence to lot 1. Commissioner Wortman seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

PUBLIC HEARING - ANNEXING ADJACENT TERRITORY INTO THE CLANCY AND JEFFERSON CITY FIRE DISTRICTS

Commissioner Lythgoe called the public hearing to order and called for comments.

Bud Siderits, Jefferson City, Volunteer Fire Department, explained the history of the boundary relocation. Basically, the fire departments could better serve and more quickly respond to those homes that are closer to their fire houses. The district boundaries were drawn up before roads were built.

Commissioner Lythgoe said that this is just common sense. Hearing no further comment, he closed the public hearing.

RESOLUTION 12-2010 ANNEXING ADJACENT TERRITORY TO THE JEFFERSON CITY
AND CLANCY FIRE DISTRICTS

Commissioner Wortman read the resolution as follows:

RESOLUTION 12-2010

**RESOLUTION ANNEXING ADJACENT TERRITORY TO THE JEFFERSON CITY
AND CLANCY FIRE DISTRICTS THROUGH A BOUNDARY RELOCATION**

WHEREAS, pursuant to §7-33-2125, MCA, the Board of County Commissioners received a petition requesting the annexation of certain lands adjacent to the Jefferson City and Clancy Fire Districts in Jefferson County. The matter having been published legally on May 19 and 26, 2010 and now this matter having come before the Board of County Commissioners of Jefferson, Montana for hearing on June 1, 2010 at 2:00 p.m.; with said Board of County Commissioners having held an open meeting, heard statements and evidence and having reviewed the Petition and various other documents and maps; and with the said Board of County Commissioners being duly advised in the premises; and

WHEREAS, the Board of County Commissioners of Jefferson County, Montana has received a written Petition, signed by fifty percent (50%) or more of the owners of the area of privately owned lands proposed to be annexed, seeking the annexation to the Jefferson City and Clancy Fire Districts of adjacent lands; and that said Petition appears to be in proper form and free from legal defect in all respects; and

WHEREAS, the area subject to the said Petition constitutes lands adjacent to the existing Jefferson City and Clancy Fire District; and

WHEREAS, the area of adjacent lands, subject to the Petition, are described in Exhibits “A” and “B” hereto, which exhibits are by this reference incorporated in these Findings and made a part hereof; and that Exhibit “B” includes a map of the area as an attachment; and

WHEREAS, the Clerk and Recorder of Jefferson County has examined said Petition and has determined that the same has been signed by the owners of fifty percent (50%) or more of the said area of adjacent, privately owned lands; and the said Clerk and Recorder has further certified to this Board of County Commissioners that the signers of the Petition constitute a majority of

the taxpaying freeholders, within such area, whose names appear on the last completed assessment roll; and

WHEREAS, the said Petition has been presented to the Board of Trustees of the Jefferson City and Clancy Fire Districts and has been approved by said Trustees; and that said Trustees are willing and able to provide fire protection services to the area subject to the Petition; and

WHEREAS, due and proper notice of the hearing of said Petition, was duly published in the *Whitehall Ledger*, the newspaper designated by the Jefferson County Board of County Commissioners, respectively, for the publication of legal notices, in the manner required by law; and

WHEREAS, the Board of County Commissioners has received no written protest to the petition, nor any other written or oral objections to the proposed annexation of adjacent lands; and

WHEREAS, pursuant to §7-33-2125, MCA, the annexed territory is required to become liable for outstanding warrants and/or bonded indebtedness, if any, of the original district.

NOW, THEREFORE, on the basis of the foregoing findings, this Board of County Commissioners of Jefferson County, Montana, hereby resolves:

1. That this Board of County Commissioners has jurisdiction over the subject Petition and over these proceedings.
2. That the area described in Exhibits “A” and “B” (including the map) which are adjacent to the existing Jefferson City and Clancy Fire Districts ARE ANNEXED to the said Jefferson City and Clancy Fire Districts.
3. That, hereafter, at all times and for all purposes, the Jefferson City and Clancy Fire Districts shall comprise and include not only those lands presently included within said Fire Districts’ boundaries, but also all of the privately owned lands described in Exhibits “A” and “B” hereto.
4. That such annexed lands and territory shall be hereafter liable for any outstanding warrants and any bonded indebtedness of the original Jefferson City and Clancy Fire

Districts per statutory requirements.

EXHIBIT A
FIRE DISTRICT BOUNDARY CHANGE

Beginning at a point of the intersection of Sections 17, 18, 19 and 20, T8N, R3W, Montana Principal Meridian, then ease approximately 1 mile along the section line common between Sections 17 and 20, continuing east approximately 3/4 mile along the section line common to Sections 16 and 21, ending at the NW corner of the NWNE Section 21, then in a south direction approximately 1/8 mile, then in a westerly direction for approximately 1/8 mile to the center of Section 21, then in an easterly direction along the center line of Section 21 for approximately 1/2 mile to the intersection with Section 22, then eastward approximately 1/8 mile on the centerline of Section 22, then in a southeast direction to the section line on the northern E-W boundary of Section 27 at the center point of this line.

Pertaining to the legal descriptions for Jefferson City VFD and the Clancy VFD boundaries as found on the Jefferson County Fire Districts legal description on the Internet, the following changes are proposed for Item (B) Clancy and Exhibit A, Resolution 17-99 for Jefferson City.

CLANCY

Township 8 North, Range 3 West

All of Sections 1 through 19, and Sections 23 through 26 and Sections 35 and 26, including the NE 1/4 of Section 21 with the exception of that portion described in COS 226427 Folio 755B as Ponderosa Minor Subdivision.

JEFFERSON CITY

Resolution 17-99, Exhibit A of Jefferson City legal description will change on the line describing T8N, R3W, as follows: T8N, R3W, P.M.M. All of Sections 20, 27, 28, 29, 30, 31, 32, 33 and 34. The NE 1/4 of Section 21 is excluded with the exception of the NWNE. Section 22 to

include the Ponderosa Minor Subdivision as described in COS 226427 Folio 755B Ponderosa Ranch Minor Subdivision.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

DAVE KIRSCH, COMMISSIONER

LEONARD WORTMAN, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Wortman seconded. The motion carried.

APPROVAL OF LARGE GROUP FUNCTION APPLICATION – HEADWATERS COUNTRY JAM

Tim Dick, president of Headwaters Country Jam, stated that they have submitted their application for their large group function permit.

Megan Bullock, County Sanitarian, stated that they are still in the process of licensing the campground. She has been conversing with Tony Prothro and she hopes that he has communicated this to the promoters. There are a few conditions she has on signing off on the license. One of her main concerns is potable water. They do have it available at the store there, but she thinks that it needs to be available to people without charge. They need signage so that people are aware that there is potable water available and where to get it. They also need signage so that the spectators know where they can dump their sewage. The final condition is that wastewater needs to be done on a permanent fashion. The steel tank has got to go. She wants to see the signs in place before she signs off on the permit.

Tim said that for clarity's sake, they are not the entity that is permitting the campground, but they are leasing the campground from them. He would like to point out that they have taken a couple of steps that weren't required of them. They have a new ticketing system that will allow them to keep better track of the number of tickets sold. Also, in response to the Sheriff's concerns, they will place a sign at the entrances stating that they will allow the Sheriff's officers to enter the premises for the purpose of enforcing all state and local laws within the premises.

Commissioner Lythgoe asked what they anticipate for attendance this year. Tim said that he thinks in there permit they estimated 1,500. Commissioner Lythgoe asked how many people were in attendance last year. Tim said that best estimate is 1,900.

Commissioner Lythgoe asked Megan that because there are some conditions that aren't meet yet, what is the time frame. Megan said that they are bumping up against the time frame. She would suggest that the permit be approved contingent on the campground licensing being met.

Commissioner Wortman moved to grant approval to the Headwaters Country Jam contingent upon the campground requirements for licensure through DPHHS being met. Commissioner Kirsch seconded. The motion carried.

DISCUSS AND DECIDE ON BUDGETING FUNDS FOR THE NORTH JEFFERSON COUNTY SPAY & NEUTER COMMITTEE FOR FY 10-11

Commissioner Lythgoe read a letter from the Spay/Neuter Committee requesting \$3,000 during the next fiscal year to help cover the spay and neuter clinics held in the north end of Jefferson County. Commissioner Lythgoe said that this could be dealt with at budget time.

Charlene Hall, Chair of the Clinics, stated that the letter pretty much covers everything. One thing that she wanted to clarify is that although it is called a "free clinic" it is free to the public, but not free to them.

Commissioner Wortman asked if they have any statistics of the savings to the county because of the clinics. Charlene said that she doesn't have any statistics, but she has gotten reports that the number of strays has gone down.

Commissioner Lythgoe stated that this will be dealt with at budget time.

DISCUSS MSTI PROJECT

Commissioner Lythgoe stated that they were hoping to have someone from NorthWest Energy at the meeting today, but no one was available at this time.

Commissioner Wortman said that they are trying to set up a meeting for Thursday morning with the advisory committee, BLM and DEQ. The BLM is still very much insisting that they want to do a cooperating agency agreement. He got some information on the differences between coordination and cooperating status. The Commission is intending to stick to our guns on being a coordinating agency rather than cooperating.

Commissioner Wortman said that he sent an e-mail to Richard Opper and asked him to release the EIS to us. The BLM claims that they aren't required to release it. DEQ, on the other hand, is required to release it to us. The DEQ doesn't want to release because they are a co-agency with BLM and trying to respect their wishes. He talked to Mr. Opper that morning, and it sounds promising that they will release it. Commissioner Lythgoe stated that it is important to note that Mr. Opper called Commissioner Wortman and requested that he send an e-mail making that

request.

Doug Salsbury said that he wonders if the advisory committee needs to be there; doesn't want to appear to be ganging up on them. Commissioner Lythgoe stated that the BLM did request that the advisory committee be there, but that is why he is hoping that the whole world doesn't show up.

Commissioner Wortman moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

DAVE KIRSCH, COMMISSIONER

LEONARD WORTMAN, COMMISSIONER